

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Thomas Thompson and Doris Thompson

93-01101

Name of Respondents

Hayne, Miller & Farni, Inc.
Michael S. Wheelock
Nancy K. (Sullivan) Kiger

REPRESENTATION

For Claimants at the hearing: Thomas F. Hutchinson, Esq. of Eastlund, Solstad & Hutchinson, Ltd., Minneapolis, Minnesota.

For Respondents at the hearing: Gregory J. Stenmore, Esq. of Briggs and Morgan, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed: March 22, 1993. Claimant's Submission Agreements signed on: February 17, 1993.

Joint Statement of Answer filed by Respondents, Hayne Miller & Farni, Inc. and Michael S. Wheelock on: June 28, 1993. Statement of Answer filed by Respondent Nancy K. Kiger on: June 23, 1993. Respondent Hayne Miller & Farni's Submission Agreement signed on: June 21, 1994. Respondent, Michael S. Wheelock's Submission Agreement signed on: July 21, 1993. Respondent Nancy K. Kiger's Submission Agreement signed on: June 3, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: December 6, 1993 for two (2) sessions:
December 7, 1993 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimants, Thomas Thompson and Doris Thompson ("Claimants") alleged that Respondents Hayne, Miller & Farni, Inc. ("Hayne Miller"), Michael Wheelock ("Wheelock"), and Nancy Kiger ("Kiger") recommended inappropriately speculative stocks and were induced to make certain of the purchases on the grounds that the investments were "guaranteed" to be successful. Claimants alleged that Wheelock purchased high risk investments for their account such as Go Video stock and Regent Enterprises, Inc. stock notwithstanding claimants low risk investment objective. Claimants set forth the following counts in their claim: 1. violation of Minn. Stat. Sec. 80A.01 and Minn. Stat. Sec 80A.03; 2. violation of Federal Securities Fraud Section 10(b) and Rule 10(b-5); 3. violation of common law fraud; 4. violation of common law breach of fiduciary duty; 5. violation of Minn. Stat. Sec. 549.20; 6. direct liability of brokerage firm for acts of its agents; and 7. negligent Supervision.

Respondents Hayne Miller and Wheelock alleged that claimants were sophisticated investors who had a long history of investing in the stock market and investing in speculative and growth securities. Hayne Miller and Wheelock also alleged that claimants signed a Suitability Determination regarding the Regent stock which represented that the risks involved were clearly understood.

Respondent Kiger alleged that she never personally guaranteed claimant's investment. Kiger alleged that she was a new broker and although she had her license, she primarily did secretarial duties to help her learn the business.

RELIEF REQUESTED

Claimants requested compensatory damages in the approximate amount of \$39,917.00, punitive damages, interest, costs and disbursements and reasonable attorney's fees.

Respondents Hayne, Miller & Farni, Inc., Michael Wheelock, and Nancy Kiger requested that based on claimants frivolous claim and bad faith attempt to unjustly blame others for market losses, that they be awarded attorney's fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Hayne, Miller & Farni, Inc. and Michael Wheelock shall be and hereby are jointly and severally liable for and shall pay to the Claimants, Thomas Thompson and Doris Thompson, damages in the amount of Twenty Four Thousand Seven Hundred and Three Dollars and Seventy Six Cents (\$24,703.76);
2. The Statement of Claim filed against Respondent Nancy Kiger (formerly Nancy Sullivan) is hereby denied and dismissed;
3. The claimant's request for punitive damages is denied;
4. The claimant's request for interest is denied;
5. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically set forth under Forum Fees below:

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

4 sessions X \$750 = \$3000 minus hearing session deposit of \$750 = net \$2250 due.

Forum fees Assessed Against Claimants, jointly and severally, in the amount of \$750 and against Respondents, Hayne, Miller & Farni, Inc. and Michael Wheelock, jointly and severally, in the amount of \$1500.

Additional Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

2-02-94

s/s

John C. DeMoss, Esq.
John C. DeMoss, Esq.
Presiding, Public Arbitrator

2-02-94

s/s

Arlen G. Restad

Arlen G. Restad
Public Arbitrator

2-02-94

s/s

Edward C. Oliver

Edward C. Oliver
Industry Arbitrator

Date Award Served By The NASD: 2-02-94